

**Additional Comment of the  
National Consumer Law Center  
on behalf of its low-income clients  
Regarding Manufactured Housing**

**Docket No. R-1417, RIN No. 7100-AD 75**

**July 22, 2011**

The National Consumer Law Center,<sup>1</sup> on behalf of its low-income clients, is pleased to submit these additional comments<sup>2</sup> on the proposed rule regarding the Dodd-Frank ability-to-repay rules under Regulation Z (Truth in Lending). These comments focus only on issues that pertain to manufactured housing.

As CFED (the Corporation for Enterprise Development) notes in its comment letter, improving loan affordability for buyers and owners of manufactured housing should be an important goal of the proposed regulation. More than 17 million Americans live in manufactured housing, the largest single source of affordable homeownership in the country. We join in CFED's emphasis of the importance of the ability to pay standard in the manufactured housing context.

**The Ability-To-Repay Rule Should Promote Sustainable Manufactured Home Lending**

*The Bureau Should Establish a Rebuttable Presumption*

As CFED highlights, and as we discuss at great length in our other comment, the Bureau should implement the Qualified Mortgage rule as a rebuttable presumption, not as a safe harbor. Law and policy both dictate this outcome.

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<sup>1</sup> The **National Consumer Law Center, Inc. (NCLC)** is a non-profit Massachusetts corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low-income consumers across the country. NCLC publishes a series of eighteen practice treatises and annual supplements on consumer credit laws, including *Truth In Lending*, (7th ed. 2010), *Cost of Credit: Regulation, Preemption, and Industry Abuses* (4th ed. 2009 and Supp.), and *Foreclosures* (3<sup>rd</sup> ed. 2010), as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers. NCLC attorneys have written and advocated extensively on all aspects of consumer law affecting low-income people, conducted training for thousands of legal services and private attorneys on the law and litigation strategies to address predatory lending and other consumer law problems, and provided extensive oral and written testimony to numerous Congressional committees on these topics. NCLC's attorneys have been closely involved with the enactment of the all federal laws affecting consumer credit since the 1970s, and regularly provide extensive comments to the federal agencies on the regulations under these laws. These comments were written by NCLC attorneys Carolyn Carter and Alys Cohen and submitted on behalf of NCLC's low-income clients.

<sup>2</sup> NCLC is also submitting comments with the Center for Responsible Lending, the Consumer Federation of America and the National Association of Consumer Advocates.

### *Adjustable Rate Mortgages Should Be Underwritten Beyond the Fully Indexed Rate*

The Bureau should use its exception authority to require that adjustable rate mortgages outside of the Qualified Mortgage be underwritten beyond the fully indexed rate. As discussed in significant detail in our other comments, many homeowners could not make payments on their ARMs during the last several years because, in addition to a general failure to underwrite, payments became unaffordable due to rate resets that occurred when interest rates were increasing. The Bureau should account for this by requiring that such loans be underwritten at least to several points above the fully indexed rate, but preferably to the maximum rate, the sensible approach used by the statute for Qualified Mortgages.

### *Credit History Should Go Beyond Credit Scores and Full File Credit Reports Based on Utility Payments Should Be Used Only on an Opt-In Basis.*

As CFED notes, the statute's requirement to rely on credit history for underwriting should go beyond credit scores themselves. Credit history in some cases will provide a fuller prediction of a borrower's creditworthiness. The borrower should be permitted to provide additional credit history based on utility or rental payments. If the consumer disputes any information in his or her credit report, the creditor should be required to take the dispute into account. Our other comments detail the issues regarding the predictiveness of using utility reporting in particular.

### **Manufactured Home Retailers Should Be Included in the Points and Fees Calculation**

We join in CFED's comments regarding the exclusion of compensation paid to certain employees of manufactured home retailers from the points and fees calculation. Exclusion of this compensation could promote additional abuses. Borrowers who purchase manufactured homes are particularly vulnerable to abuse due to a market structure that discourages consumer protection and enables lenders and dealers alike to steer borrowers into unsafe loan products.

We join CFED in urging the Bureau to stress the narrow confines of this exclusion: if an employee of a manufactured home retailer takes the loan application, offers or negotiates the credit terms, or advises the consumer on the credit terms, then the compensation paid to that employee for those services must be included in the points and fees calculation. We also urge the Bureau to consider using its exception authority to reexamine this exemption. In addition, the Bureau should implement disclosure requirements regarding manufactured home loans with points and fees that exceed the limits established by this proposed rule.

Thank you for the opportunity to comment.